

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: June 13, 2016
	Agenda Item No. 55 Roll Call No. <u>16-0989</u> Communication No. <u>16-305</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Review of Zoning Board of Adjustment decision temporarily granting a temporary Use Variance to allow the accessory structure at 5311 Southwest 9th Street to be used in common with an existing automobile service garage use for a 1-year period to end June 1, 2017.

SYNOPSIS:

Staff recommends that the Council decline to remand the decision of the Zoning Board of Adjustment conditionally granting a temporary Use Variance of the permitted uses in the “R1-60” One-Family Low-Density Residential District, for a 1-year period to end June 1, 2017.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

- The site is located at the northeast corner of Southwest 9th Street and Kenyon Avenue. It measures 74 feet by 198 feet (14,660 square feet) and is located within the Fort Des Moines Neighborhood Association.
- The site is owned by George Michael Clayton, 14455 University Avenue, Waukee, IA, 50263. The business occupying the premises is owned by Joe Frazier, 5311 Southwest 9th Street Des Moines, IA 50315.
- The majority of the site is zoned “C-2” General Retail and Highway-Oriented Commercial District. However, the easternmost 50 feet of the site is zoned “R1-60” One-Family Low-Density Residential District.
- The site contains an automobile service garage on the portion of the site that is zoned “C-2” District and an accessory structure that is partially on the portion of the site that is zoned “R1-60” District.
- On May 25, 2016, the Zoning Board of Adjustment voted 5-1 to temporarily approve a Use Variance of the permitted uses in the “R1-60” One-Family Low-Density Residential District to allow the accessory structure on the eastern portion of the property to be used for storage accessory to the existing automobile service garage use for a 1-year period to end June 1, 2017.

- The approval is subject to the following conditions:
 1. No later than June 1, 2017, the accessory structure on the eastern portion of the subject property shall either be removed from the site or modified to provide the minimum required 10-foot setback from the “R1-60” District zoning boundary.
 2. If the current business tenant vacates the premise or discontinues use of the accessory structure before June 1, 2017, the accessory structure shall immediately either be removed from the site or modified to provide the minimum required 10-foot setback from the “R1-60” District zoning boundary
- Pursuant to Section 134-65 of the City Code, the City Council shall review the Board’s decision within 30 days after the decision is filed. After such review, the City Council may remand the decision to the Board for further study. If the City Council declines to remand the decision, that decision shall become final on the date of the City Council’s action (June 13, 2016).

PREVIOUS COUNCIL ACTION(S):

Date: March 7, 2016

Roll Call Number: [16-0431](#)

Action: Moved by Gatto to adopt and deny the proposed rezone the property from “R1-60” One-Family Low-Density Residential District to “C-2” General Retail and Highway-Oriented Commercial District, approved by a 7-0 vote.

BOARD/COMMISSION ACTION(S):

Board: Zoning Board of Adjustment

Date: May 25, 2016

Resolution Number: ZON2016-00075

Action: Motion to conditionally grant a Use Variance to allow an automotive repair business for a one-year period to expire June 1, 2017, approved by a 5-1 vote.

Board: Plan & Zoning Commission

Date: February 4, 2016

Resolution Number: ZON2015-00226

Action: Motion to recommend denial of a request to rezone the property from “R1-60” One-Family Low-Density Residential District to “C-2” General Retail and Highway-Oriented Commercial District, approved by an 11-1 vote.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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